

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CEA No.53 of 2017 (O&M)
Date of Decision.06.09.2018

Principal Commissioner of Central Excise & Service Tax, Ludhiana
...Appellant

Vs

M/s Perfect Dyeing & Finishing Industries ...Respondent

**CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. Tajender K. Joshi , Advocate
for the appellant.

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RAJESH BINDAL J.

The appellant in the present appeal has challenged the order dated 01.09.2016 passed by the Customs, Excise and Service Tax Appellate Tribunal, Chandigarh arising out of Appeal No.E/277/2008, raising the following substantial questions of law:-

“(i) Whether the Hon'ble Tribunal is justified in rejecting the appeal of the Department on the basis that the parties from whom the respondent has procured raw material have been exonerated by the department giving the benefit as the facts of the case do not bear out the allegation that these parties have acted in collusion with the respondent, when the charge of clandestine removal of goods without payment of duty is clearly established by the circumstantial evidence against the respondent?

(ii) Whether the department is expected to prove the

case of clandestine removal with mathematical precision even after gathering enough primary evidence like the statements of 15 parties (out of 31 parties) whose name figured in the private diary resumed from the respondent evidencing unaccounted transactions of dyed fabrics indicating clandestine removal and voluntary admission by the respondent in written statement to this effect?"

At the very outset, learned counsel for the appellant submitted that the amount involved in the present appeal is ₹ 46,54,000/-. As the amount involved is less than the limit prescribed in the Instructions issued by the Central Board of Indirect Taxes & Customs (Judicial Cell) dated 11.07.2018, the present appeal be dismissed as not maintainable.

Ordered accordingly.

However, it is made clear that dismissal of present appeal will not be taken as upholding the order passed by the Tribunal as the legal issue raised therein is left open to be considered in an appropriate case.

(RAJESH BINDAL)
JUDGE

(AMIT RAWAL)
JUDGE

September 06, 2018

Pankaj*

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No